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LOS ANGELES

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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

10 DR. ALLEN PANZER, AMY SAYERS,)
11 LILY JEUNG, and DARREN)
12 WALCHESKY, on behalf of themselves)
13 and all others similarly situated)

14 Plaintiffs,

15 vs.

16 YELP, INC.

17 Defendants.

CASE NUMBER:

-CV13-07805 *DDP (JCG)*

CLASS ACTION COMPLAINT FOR
(1) VIOLATIONS OF THE FAIR LABOR
STANDARDS ACT;
(2) QUANTUM MERUIT
(3) UNJUST ENRICHMENT

FAXED

JURY TRIAL DEMANDED

18 Plaintiffs ("Plaintiffs"), on behalf of themselves and all other similarly situated persons, by
19 and through their undersigned counsel, allege upon personal knowledge as to themselves and upon
20 information and belief as to other matters, as follows:

21 **I**
22 **NATURE OF THE ACTION**

23 1. Every day, millions of people use online reviews to help them make purchasing decisions,
24 whether for local tour-bus companies, law firms, pizza parlors, or sushi bars. Online reviews are
25 a popular and valuable resource for consumers to learn about local businesses and professionals.

26 2. Defendant Yelp owns and operates popular websites that feature information about local
27 businesses nationwide and around the world that include ratings, reviews, photos and more.
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1 Yelp's websites, average 108 million visitors per month, and users have posted over 42 million
2 reviews to them.

3 3. A vast majority of the ratings, reviews, and photos posted on Defendant Yelp's websites
4 are created and supplied by a large and ever-growing stable of non-wage-paid writers. This
5 lawsuit seeks to recover unpaid compensation for Plaintiffs and other similarly situated workers
6 who have been employed by Defendant in the United States.

7
8 4. Defendant Yelp is an American online media company and weblog network, based in
9 San Francisco, CA. Defendant has been listed in major news publications as being among the
10 most financially successful weblogs in America. One article in particular attributes Defendant's
11 huge profit margin to its low operating costs, which is in large part attributable to the non-wage-
12 paid labor of its workers. Defendant, by virtue of its management and control over the nature of
13 the wages and work of its employees, is an "employer" under applicable labor law.

14 5. Yelp earns its income by selling advertising on its site, the content of which is created
15 free-of-wages by hordes of solicited posters, in violation of the Federal Labor Standard Act
16 ("FLSA").

17 6. This is a class-action complaint under Section 216(b) of the Fair Labor Standards Act
18 ("FLSA") based on Defendant's policies and practices of refusing to pay wages to its workers
19 by designating them variously as "reviewers" or "Yelpers" or "independent contractors" or
20 "interns" or "volunteers" or "contributors" even though they are performing vital work that inures
21 to the benefit of Yelp's various business enterprises. Defendant could not exist, nor make its
22 enormous returns, without its domination and control over non-wage writers. One of Defendant's
23 co-founders stated: "The site wasn't set up to serve businesses, it was meant to serve the consumer.
24 Without the community of reviewers, there is no Yelp."

25
26 7. Business journal commentators have compared said business practices to a 21st Century
27 galley slave ship with pirates banging the drum to keep up the fast pace and to fill the pockets of
28

1 their stockholders with treasure. . . and with "overhead that would shame an antebellum
2 plantation." "Yelp's business model profits off the unpaid work of reviewers".

3 8. Defendant's business model and slip-shod approach to its policies and practices have
4 become suspect in both the public forum, as witnessed by the proliferation and popularity of such
5 websites as *yelp-sucks.com*; and within the courtrooms.¹

6 9. The practice of classifying employees as "reviewers" or "Yelpers" or "Elites" or
7 "independent contractors" or "interns" or "volunteers" or "contributors" to avoid paying wages
8 is prohibited by federal law, which requires employers to pay all workers who provide material
9 benefit to their employer, at least the minimum wage. Defendant, by virtue of its management
10 and control over the nature of the wages and work of its writers, is an "employer" under applicable
11 labor law.
12

13 10. Additionally, Defendant, has been, and continues to be, unjustly enriched by the unpaid
14 contributions provided by these plaintiffs and all those similarly situated. Unjust enrichment is
15 based upon society's interest in preventing the injustice of a person's retaining a benefit for which
16 no payment has been made to the provider.
17

18 11. The named plaintiffs, and persons similarly situated, are persons who each worked a
19 substantial number of hours for Defendant over a number of years, and were not paid a single cent
20 for their work. The work they performed -- writing, researching, editing, lodging reviews,
21 upgrading prior reviews, and generally promoting the site -- is central to Defendant's business
22 model as a publisher.

23 12. On information and belief, Defendant employs 10s of thousands other "reviewers" in
24

25
26 ¹Oregon Superior Court Judge Henry Kantor stated that Yelp's business model is
27 "offensive" and "highly problematic." California Superior Court Judge Peter Doft, characterized
28 Yelp's actions as "the modern day version of the Mafia going to stores and saying 'You wanna
not be bothered ... you wanna not have incidents in your store? Pay us protection money'."

1 the same way, paying them nothing or underpaying them and utilizing their services to publish
2 its content on the internet, an enterprise that generates significant amounts of revenue for
3 Defendant. Plaintiffs ask this Court to order Defendant to follow the law and compensate its
4 workers pursuant to FSLA for the necessary services that they render to Defendant.

5
6 **II.**
JURISDICTION AND VENUE

7 13. This Court has original jurisdiction over this case pursuant to 28 U.S.C. §§ 1331, 1332,
8 and 1367, because the action involves a federal statute, the FLSA, 29 U.S.C. § 216

9 14. Venue is proper in this District pursuant to 28 U.S.C. § 1391 (b)(2), because a substantial
10 part of the events giving rise to the claims asserted herein occurred in this judicial district; 28
11 U.S.C. § 1391(c)(2), and (d).

12
13 **III**
PARTIES

14 15. Plaintiff DR. ALLEN PANZER, is an individual domiciled in Houston TX. who has
15 written approximately 70 reviews for Defendants since November 2007. Dr. Panzer has 20 so
16 called "friends" on Yelp, consisting of other Yelp writers, readers and employees. Defendant
17 unlawfully misclassified this plaintiff and the members of the Class as non-wage-paid employees,
18 failed to pay them a minimum wage and overtime payments, and otherwise violated their legal
19 rights as set forth herein. Said party plaintiff has given consent in writing to become such a party
20 and such consent shall be filed in the Court.

21
22 16. Plaintiff AMY SAYERS is an individual domiciled in Portland, OR, who has written over
23 500 reviews for defendants since 2006; has been awarded the prestigious "First To Review" and
24 "Review Of The Day" honors; and been designated an "Elite" reviewer by Defendants². In order
25 to maintain her "Elite" status, Ms. Sayers was often directed to write more reviews if in
26

27 ²Yelp defines "Elite" status as "a designation awarded writers who supply superior
28 intellectual, social, and/or economic status and are deemed the best or most skilled writers"

1 Defendant's opinion her production seemed to slack off. Substantially all of her labors for Yelp are
2 within this judicial district. Ms. Sayers was fired from her position with no warning, a flimsy
3 explanation, and no opportunity for recourse or appeal rights. Her licence to write reviews was
4 revoked; the awards she had attained were taken away; and her reviews were removed from the
5 website, and she has been refused access to her own writings. Defendant unlawfully misclassified
6 this plaintiff and the members of the Class as non-wage-paid employees, failed to pay them a
7 minimum wage and overtime payments, and otherwise violated their legal rights as set forth herein.
8 Said party plaintiff has given consent in writing to become such a party and such consent shall be
9 filed in the Court.
10

11 17. Plaintiff, LILY JEUNG is an individual domiciled in Los Angeles, CA, who has written
12 approximately 1,100 reviews for Defendants; until recently had 5,000 "followers" (which is the
13 maximum amount possible), with a "waiting list" of at least 100 individuals in line to become her
14 "followers"; been awarded the prestigious "First To Review" and "Review Of The Day" honors;
15 and for the previous 5 years has been designated by Yelp as an "Elite" reviewer. Substantially all
16 of her labors for Yelp are within this judicial district. In order to maintain her "Elite" status, Ms.
17 Jeung was often directed to write more reviews if in Yelp's opinion her production seemed to slack
18 off. Ms. Jeung was fired from her position with no warning, a flimsy explanation, and no
19 opportunity for recourse or appeal rights. Her licence to write reviews was revoked; the awards she
20 had attained were taken away; and her reviews were removed from the website, and she has been
21 refused access to her own writings. Defendant unlawfully misclassified this plaintiff and the
22 members of the Class as non-wage-paid employees, failed to pay them a minimum wage and
23 overtime payments, and otherwise violated their legal rights as set forth herein. Said party plaintiff
24 has given consent in writing to become such a party and such consent shall be filed in the Court.
25

26 18. Plaintiff, DARREN WALCHESKY is an individual domiciled in Pittsburgh PA, who has
27 written over 1,200 reviews, as well as 238 follow-up and updated reviews for Defendants. His
28

1 writings have garnered 13,536 "Useful" votes, 10,469 "Funny" votes, and 11,854 "Cool" votes from
2 Defendant's audience of writers and readers. Mr. Walchesky has received 611 "First to Review"
3 awards from Yelp; has taken and submitted 2,122 photographs which have been published at
4 Defendant's discretion; and was often directed to write more reviews if in Yelp's opinion his
5 production seemed to slack off. Additionally, Mr. Walchesky hosted at least one social and
6 instructional event for fellow Yelp writers at the bequest of Defendants. Defendant unlawfully
7 misclassified this plaintiff and the members of the Class as non-wage-paid employees, failed to pay
8 them a minimum wage and overtime payments, and otherwise violated their legal rights as set forth
9 herein. Said party plaintiff has given consent in writing to become such a party and such consent
10 shall be filed in the Court.
11

12 19. The defendant, YELP, INC., is a corporate entity duly formed and incorporated pursuant
13 to the laws of the State of Delaware and with its principal place of business in San Francisco, CA.
14 Yelp operates the website *yelp.com*, as well as various others.

15 20. Defendant has the power to set wages and wage policies for its employees, which in
16 conjunction with its detailed policies and procedures and terms and conditions, Defendant
17 controls the behavior of its workers and the placement and content of the their work product.
18 Defendant is a covered employer within the meaning of the FLSA. At all relevant times,
19 Defendant is legally responsible for the violations of the FLSA committed by Defendant and
20 alleged in this Complaint.
21

22 **IV.**
23 **CLASS ACTION ALLEGATIONS**

24 21. Plaintiffs bring this action under Fed. Rules Of Civ. Pro. 23(a) and (b) as a class action on
25 behalf of themselves and all others similarly situated for the purpose of asserting the claims alleged
26 in this Complaint on a common basis.

27 22. Plaintiffs in all claims, pursuant to the FLSA, 29 U.S.C. § 216, on behalf of themselves
28

1 and all similarly situated persons, were employees of Defendant, and were not paid wages for their
2 work published on Defendant's website; each performed duties relating to the creation and
3 promotion of content on behalf of Defendant, including but not limited to writing, researching,
4 editing, lodging reviews, upgrading prior reviews , and generally promoting the site, during the
5 period between four years prior to the filing of this Complaint and until the date of final
6 adjudication of this action (the "FLSA Class").

7
8 23. Class action treatment will allow those similarly situated persons to litigate their claims
9 in the manner that is most efficient and economical for the parties and the judicial system.

10 24. Some Plaintiffs wrote reviews for Defendant regularly, while others wrote intermittently.

11 25. Plaintiffs were an indispensable and integral part of the success of the Defendant's
12 business. Defendant's business model is dependent on the plaintiff writers.

13 26. The totality of the circumstances surrounding Plaintiffs' employment relationship
14 with Defendant indicates economic and other dependence.

15 27. Although Plaintiffs do not know the exact size of the Class or the identities of all members
16 of the Class, upon information and belief that information can readily be obtained during discovery.
17 Plaintiffs believe that the Class includes thousands of persons who are widely geographically
18 disbursed. Thus, the proposed Class is so numerous that joinder of all members is impracticable.

19
20 28. The claims of all members of the Class involve common questions of law and fact.

21 29. Plaintiffs' claims are typical of the claims of all other members of the Class, and
22 Plaintiffs' interests do not conflict with the interests of any other member of the Class, in that
23 Plaintiffs and the other members of the Class were subjected to the same unlawful conduct.

24 30. Plaintiffs are committed to the vigorous prosecution of this action and have retained
25 competent legal counsel experienced and knowledgeable in labor law.

26 31. Plaintiffs are adequate representatives of the Class and, together with its attorneys, are
27 able to and will fairly and adequately protect the interests of the Class and its members.
28

1 32. A class action is superior to other available methods for the fair, just, and efficient
2 adjudication of the claims asserted herein. Joinder of all members of the Class is impracticable and,
3 for financial and other reasons, it would be impractical for individual members of the Class to
4 pursue separate claims.

5 33. Moreover, the prosecution of separate actions by individual members of the Class would
6 create the risk of varying and inconsistent adjudications, and would unduly burden the courts.
7

8 **V.**
FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS

9 34. While the allegations in this *Complaint and Jury Demand* are generally written in the
10 past tense, they apply equally to Class Members who are currently employed by Defendants.

11 **A. Defendant Exploits a Vulnerable and Disposable Class of Workers**

12 35. Defendant's business model is predicated entirely on the exploitation of Plaintiffs' work
13 product in order for the company and its owners to earn approximately \$220 million annually.
14 Its success is dependant upon the efforts of hordes of non-wage-paid reviewers and its ability to
15 use those reviews as ready-made advertising-content to advertise businesses on their websites.
16

17 36. Defendant's enormous growth and preeminence as a publisher are directly attributable to
18 its low operating costs, made possible by not paying wages to an entire class of workers and thereby
19 also sidestepping payment of taxes, and other societal contributions.

20 37. By shirking its responsibilities to pay its workers, Defendant is in essence thumbing its
21 nose both at their workers and the taxing authorities of all states and the U.S. Government.

22 38. Yelp has devised a system of cult-like rewards and disciplines to motivate its non-wage-
23 paid writers to labor without wages or expense reimbursement, in violation of equitable principles
24 and the FSLA, by offering such rewards as trinkets, badges, titles, praise, social promotion, free
25 liquor, free food, and free promotional Yelp attire, such as red panties with "Make Me Yelp!"
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1 stamped across its bottom.³ Awards and public recognition are regularly offered for such activities
2 as being the first to review a new business; frequently checking in with specific businesses; and for
3 writing a certain number of reviews within a given time-frame. These motivational awards are
4 offered by Defendant to its writers instead of just compensation in the form of wages. States one
5 long-time Yelper, "It's kind of like a cult, except instead of Kool-Aid we drink alcohol,"

6 39. Yelp's parties have become regular and highly-anticipated events for its "Elite Squad",
7 comprised of selected invitees based on the quality and quantity of their reviews, and help Yelp
8 continue to push workers to compete for what have become coveted honors.
9

10 40. Other motivations besides bestowing prolific reviewers with the title "Elite"⁴ is the
11 dubbing of individuals with such titles as "Duke" or "Duchess"; then "Baron" or "Baroness" (the
12 ones with the most Dukedoms in their neighborhood); and finally crowning their active participants
13 "King" or "Queen", the person with the most Dukedoms in a given city. These titles are used to
14 generate and maintain interest and productivity of its writers in lieu of monetary compensation, as
15 required by the FLSA.

16 41. Additional motivational awards offered by Yelp to its workers, including "Review of the
17 Day"; "Review of the Week", "Review of the Month", "Look Who's Mouthing Off", and "Reviews
18 We Like", are routinely used instead of payment of just compensation in the form of wages. These
19 awards are treated as valuable commodities within the Yelp community, and by utilizing an award-
20 and-punishment form of barter, Yelp is trying to avoid its responsibility to pay its workers a fair
21

22
23 ³"You can have fans. You can get the glory of personal thanks from chefs you've deified,
24 or the smug satisfaction of hate mail from those you've savaged. You can hobnob with
25 sous-chefs at food events. If your soul is for sale, you can cadge free drinks or meals. As a
26 bonus, you might even get a sex life — and if so inclined, you can discuss it in detail, online,
with fellow foodies." Journalist's summation after researching Yelp's success in motivating non-
wage-paid writers to work in violation of their rights under the FLSA.

27
28 ⁴On its website, Defendant describes its "Elite Squad" as a way of "recognizing and
rewarding Yelpers who are active evangelists and role models, both on and off the site".

1 wage, and to contribute its share of employment taxes.

2 **B. "Right to Control" Test**

3 42. One test used by Courts to determine an entity's relationship to its workers is the
4 employer's right to control. The critical question in determining direction and control under this
5 test is not the *actual* exercise of control or the *degree* of control by the employer, but whether the
6 *right of control* exists.

7
8 43. Yelp urges its non-wage-paid writers to increase the volume of their production with such
9 challenges as "100 Reviews in 100 Days", their pay being liquor, food, badges, trinkets, and titles.
10 Additionally, Yelp promoters instruct the non-paid writers where to post their work product. When
11 writers fail to follow Yelp's requests, they are corrected and counseled to move their work to a
12 directed location. Yelp writers are also directed by Defendant to write more reviews at a faster pace
13 if in Defendant's opinion its non-wage-paid writer production is declining.

14 44. While these and thousands of other similarly-situated plaintiffs worked for liquor, food,
15 badges, trinkets, and titles, certain other writers within the company have been paid in wages; these
16 include but are not limited to the 200,000 reviewers that Defendant admitted to in its SEC filing;
17 the paid-with-wages "scouts" who open up new geographic areas for the company; "Community
18 Managers" in each of the cities in which Yelp operates; and traditionally-salaried employees of
19 Yelp, including the CEO, who has written more than 1,400 reviews on the site. This action seeks
20 to have all writers for Defendant be paid in wages pursuant to the FLSA.

21
22 45. Another key factor in determining an employer's right to control is its ability to fire its
23 workers. Defendant has, and exercises, the right to fire any worker at any time, with or without
24 cause, with or without warning, with or without explanation or offering any recourse or formal
25 appeal rights.

26 46. At least two named Plaintiffs, and numerous other similarly situated persons, *were*
27 actually fired by Defendant; their badges and licenses were revoked; their status and reputation
28

1 sanctimoniously stripped away; and their extensive work product deleted from the system with no
2 recourse or ability to recover it.

3 47. One plaintiff stated: "My situation is a little different. I left a negative review on Yelp
4 regarding one of their advertisers. Not only was my review removed, but I also received an e-mail
5 cancelling my Yelp account and stating that I could no longer write reviews or get access to any that
6 I had written. I was fired by Yelp for supposedly breaking one of their rules, which I didn't".

7 48. By imposing strict guidelines and policies on its reviewers, Defendant exercises full
8 control over the quality, tone, content, quantity, placement, and it's all-important star-rating system
9

10 49. These Plaintiffs, and other similarly situated persons, *did* actually work under the close
11 scrutiny and prodding of Defendant and had to closely adhere to Defendant's contracts, content
12 guidelines, terms of service, and other policy statements.

13 50. Additionally, writers and their work-product are used as pawns in Defendant's transparent
14 strategy of utilizing the reviews as ammunition to punish some businesses and reward others.
15 Defendant controls the content of its websites by unilaterally determining what kind of reviews it
16 will use, and what kind it won't

17 51. Defendant controls its writers in the form of directives: An "elite" reviewer of long
18 duration revealed that Defendant directly and through its "Community Managers" controls the
19 writers with ethical standards, often by deleting "non-conforming" work; by chastising its writers
20 for failing to follow Yelp rules; and dispensing so-called "guidelines" in form of directives.

21 52. In directives to his non-wage-paid workers, Yelp CEO, Jeremy Stoppelman, gives direct
22 orders to non-wage-paid employees and has threatened that there would be dire consequences if they
23 failed to obey him stating: "I make the decisions and I stand behind them". CEO Stoppelman further
24 refers to "the measuring stick" and warns "there will be serious penalties to those that ignore us. The
25 measuring stick is do you have enough independence to be able to criticize the business? If the
26 person is a friend or you can't imagine a scenario where you could give them anything less than a
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28

1 5 star review you're likely biased and shouldn't review the business. I would definitely not review
2 any of your business networking contacts made through Ladies who Launch or the
3 eWomenNetwork.”

4 53. Defendant cajoles its troops: “By accepting this invitation, you'll be one of the voices and
5 faces of Yelp Elite -- in essence our ambassadors both on and offline - so all we ask is that you
6 commit to keep "Yelping" about your favorite restaurants and clubs, your doctor, your mechanic,
7 your hair salon, or really anything that's local and would help others to know about! We want you
8 to keep telling your friends about Yelp and encourage them to invite their friends as well (the more
9 people Yelping, the more useful and fun the site becomes). We also ask that you contribute
10 positively to the site and do your part to set an example of what a stellar Yelper can and should be.”

12 54. Plaintiffs report they must write glowing reviews of the venues that sponsor company
13 events, where they are often offered free food, liquor, and use of the premises, under threat of losing
14 their "elite" status⁵.

15 55. Defendant controls its reviews to pander to its advertisers. For instance, Defendant
16 informed one of its writers that it was removing her reviews because it was based on her personal
17 experience. It then told another writer that it was removing his reviews because they were NOT
18 based on his personal experience. This odd conduct by Defendant is used to placate advertisers who
19 might get upset by negative reviews, and then threaten to cancel their advertising.
20

21 56. One writer said: “I loved Yelp until I got an email from them saying they have taken off
22 my photos due to the pictures being my ‘personal experience’ and that the reason behind taking off
23

24 ⁵Yelp, at all times relevant had the right to control its non-wage-paid employees. At a
25 business meeting of so called Yelp "Elites" held at a restaurant, one of the non-wage-paid
26 employees became so intoxicated with the free liquor supplied by Yelp or its sponsor that she
27 became unconscious. Rather than call for medical assistance for this life threatening condition,
28 Yelp wage-paid employees controlled the intoxicated woman at the site, denying her medical
rescue, and unsuccessfully searched for her identity with evidence of her age and her address.
While the woman remained unconscious wage-paid employees of Yelp stayed with her until she
finally became conscious again to mumble her address.

1 my photos is because it does not 'portray the business as a whole.' Well excuse me for showing
2 other victims where their \$100 a night stay is worth. I'm sorry I was honest. Would it be better if I
3 lied?"

4 57. Another reviewer admits that her two-star review (in which she says the restaurant "sucks")
5 wasn't really because she hated the restaurant - in fact, she thinks the proprietors have "a great thing
6 going" - but because in order to keep her "Elite" status, she must write reviews with every level
7 of Yelp ratings, including one-and two-star ratings. This directly conflicts with Yelp's assurance to
8 the SEC that it doesn't tell its reviewers how to rate businesses, as well as lends credence to the
9 countless business owners who insist that Yelp manipulates the review system.
10

11 58. Defendant has admitted that it controls the content and placement of its reviews for the
12 benefit of its business model:

13 "If we fail to filter or remove a significant amount of content that is
14 biased, unreliable, or otherwise unhelpful, or if we mistakenly filter or
15 remove a significant amount of valuable content, our reputation and
16 brand may be harmed, users may stop using our products and our business
17 and results of operations could be adversely affected.

18 Our success depends on the quality of the reviews, photos and other
19 content that we show on our platform, including whether they are helpful,
20 up-to-date, unbiased, relevant, unique and reliable. If users do not value
21 the content on our platform, they may stop or reduce the use of our
22 products, and traffic to our website and on our mobile app will decline.
23 If our user traffic declines, our advertisers may stop or reduce the amount
24 of advertising on our platform.

25 As a result, our business could be negatively affected if we fail to obtain
26 high quality content from our contributors, or if the content we display is
27
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1 perceived to be unhelpful, out-of-date, biased, irrelevant, not unique or
2 unreliable.

3 We must therefore ensure that our products and features are attractive to
4 users, and encourage them to contribute. In addition, users who contribute
5 content to our platform may provide content to our competitors or
6 subsequently remove their content from our platform. If they do so, the
7 value of our content may decline relative to other available products and
8 services, and our business may be harmed.”
9

10
11 **C. “Relative Nature Of the Business” Test**

12 59. A secondary test used by Courts to determine an entity’s relationship to its workers is
13 the **“relative nature of the business”** test, the components of which include determining whether
14 the principal retains pervasive control over the operation as a whole, and whether the worker’s duties
15 are an integral part of the operation.

16 60. Defendant retains pervasive control over the operation and content of its website in
17 performing vital work that inures to the benefit of Yelp’s various business enterprises. Defendant
18 admits that it could not exist, nor make its enormous returns, without its domination and control over
19 unpaid writers.
20

21 61. Plaintiffs duties are an integral part of Defendants’ operation. One of Yelp’s
22 co-founders stated: “The site wasn’t set up to serve businesses, it was meant to serve the consumer.
23 Without the community of reviewers, there is no Yelp.”

24 62. Defendant disseminated a public notice: “We love interns at Yelp! And since we are such
25 a small, agile team, we can take on interns around the clock. If you are looking to gain experience
26 at a cool start-up and do real work, then this is the place. Join us as an intern and have a real impact
27 on our mobile apps, yelp.com or our services for business owners.”
28

63. Defendant has paid some writers wages to write reviews for its websites, while a vast majority of its reviewers are paid with liquor, food, badges, trinkets, and titles. Not only must the wage-paid and non-wage-paid writers follow the exact same rules dictated by Defendant, but when looking at the profiles of the writers on Yelp's website, there is no distinction made between them, other than a rare "Scout" or "Ambassador" badge for a wage-paid writer. This discretionary method of paying some employees wages, but not others, is in violation of the FLSA.

64. One writer, who had been an advocate, promoter, educator, and regular contributor with numerous followers, stated that “I was Elite long before Pittsburgh had a community manager and Elite Squad parties. Back in 2007, Yelp actually paid people wages in Pittsburgh to write reviews to get the ball rolling. Silly me, I was doing it for free (i.e. non-FLSA-required wages).”

VI. IMPACT OF VIOLATIONS

65. The misclassification of employees as something other than employees, whether they go by such monikers as volunteers, independent contractors, interns, contributors, free-lance writers, reviewers, elites or Yelpers, presents a serious problem for affected employees, employers, and to the entire economy. Misclassified employees are often denied access to critical benefits and protections – such as, minimum wage, overtime, health insurance, retirement benefits and unemployment insurance – to which they are entitled. Employee misclassification also generates substantial losses to the Treasury and the Social Security and Medicare funds, as well as to state unemployment insurance and workers compensation funds.

66. The Department of Labor's *Misclassification Initiative*, launched under the auspices of Vice President Biden's Middle Class Task Force, is making great strides in combating this pervasive issue and to restoring these rights to those denied them. In September 2011, Secretary of Labor Hilda L. Solis announced a major step forward with the signing of a Memorandum of Understanding (MOU) between the Department and the Internal Revenue Service (IRS). Under this agreement, the

1 agencies will work together and share information to reduce the incidence of misclassification of
2 employees, to help reduce the tax gap, and to improve compliance with federal labor laws.

3 67. This Court must force Defendant, and other similarly-situated employers, to comply with
4 Federal labor laws; this would send a clear message that private companies cannot rely on non-wage-
5 paid laborers, to perform work that is the core of its business, and that they have a responsibility to
6 uphold the spirit of the law. Further, Defendant's use of non-wage-paid employees gives it an unfair
7 business advantage over its competitors.
8

9
10 **VII.**
11 **FIRST CAUSE OF ACTION**
12 **ON BEHALF OF NAMED PLAINTIFFS,**
13 **AND ALL OTHER PERSONS SIMILARLY SITUATED:**
14 **VIOLATIONS OF THE FAIR LABOR STANDARDS ACT**

15 68. Plaintiffs incorporate by reference the allegations of each and every one
16 of the preceding paragraphs as though fully set forth herein.

17 69. Defendant failed to pay these plaintiffs or any similarly-situated worker any
18 compensation for the work and labor they performed for Defendant as employees of Defendant.

19 70. These Plaintiffs and all other similarly-situated workers are owed unpaid wages from
20 Defendants pursuant to 29 U.S.C. §§ 206, 207, and any other applicable statute or rule, in an
21 amount which will be determined upon a review of Defendant's records and/or at the trial on this
22 action.

23 71. The number of persons similarly situated to the individual plaintiffs, and the names
24 of such persons, is unknown, but such persons, upon information and belief, number in the tens-
25 of-thousands, and such persons, who will be identified once discovery is had in this case upon
26 the review of Defendant's records and upon such identification will be offered to "opt-in" to join
27 with this action, are owed unpaid minimum wages from the defendants pursuant to 29 U.S.C.
28 §§ 206, 207 in an amount which will be determined upon a review of the defendants' records

1 and/or at the trial of this action.

2 72. Defendants' violations of the FLSA were willful.

3 73. As a result of the foregoing, the individual plaintiffs seek judgment against the
4 defendants on their own behalf and on behalf of those similarly situated who file written
5 consents to joinder in this action for all unpaid minimum wages owed by the defendants to the
6 plaintiffs and such other persons similarly situated pursuant to 29 U.S.C. §§ 206, 207, together
7 with an award of an additional equal amount as liquidated damages, and costs, interest, and
8 attorney's fees, as provided for under 29 U.S.C. § 216(b).
9

10
11 **VIII.**
12 **SECOND CAUSE OF ACTION**
13 **ON BEHALF OF NAMED PLAINTIFFS,**
14 **AND ALL OTHER PERSONS SIMILARLY SITUATED**
15 **PURSUANT TO QUANTUM MERUIT**

16 74. Plaintiffs incorporate by reference the allegations of each and every paragraph
17 numbers 1-67 inclusive as though fully set forth herein.

18 75. Plaintiffs wrote, researched, edited, lodged reviews, upgraded prior reviews, and
19 generally promoted Defendant's website based upon Yelp's inducement of trinkets, social status,
20 liquor, food and other non-wage compensation.

21 76. Defendant utilized Plaintiffs' services to publish their content on the internet, an
22 enterprise that generates two-hundred-and-twenty million dollars (\$220,000,000) per year.

23 77. Defendant has failed to pay Plaintiffs just compensation of wages, benefits and
24 reimbursement for the reviews they created.

25 78. As a result of the Defendant's failure and refusal to pay said commissions, Defendant has
26 been unjustly enriched.
27

28 79. As a direct and proximate result of Defendant's failure or refusal to pay said

1 commissions, Plaintiffs have sustained damages, to be proven.

2 80. Equity and justice require Defendant to pay the Plaintiffs just compensation of wages,
3 benefits and reimbursement for the reviews they created.
4

5 81. Plaintiffs are without a remedy absent this Court's intervention.
6

7 **IX.**
8 **THIRD CAUSE OF ACTION**
9 **ON BEHALF OF NAMED PLAINTIFFS,**
10 **AND ALL OTHER PERSONS SIMILARLY SITUATED**
11 **PURSUANT TO UNJUST ENRICHMENT**

12 82. Plaintiffs incorporate by reference the allegations of each and every paragraph
13 numbers 1-67 inclusive as though fully set forth herein.

14 83. Defendant, has been, and continues to be, unjustly enriched by the non-wage-paid
15 labors provided by these plaintiffs and all those similarly situated. Unjust enrichment is based
16 upon society's interest in preventing the injustice of a person's retaining a benefit for which no
17 lawful payment has been made to the provider.

18 84. By refusing to pay Plaintiffs wages for hours worked, Defendant as unjustly enriched at
19 the expense of and to the detriment of all Plaintiffs.

20 85. Defendant's retention of any benefit collected directly and indirectly violates principles
21 of justice, equity, and good conscience when they refuse to pay Plaintiffs' wages. As a result,
22 Defendant has been unjustly enriched.
23

24 86. Plaintiffs are entitled to recover their fair compensation, and Defendant should be
25 required to disgorge to Plaintiffs the benefit they have unjustly obtained.
26

27 **X.**
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CLASS-ACTION COMPLAINT

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I. (a) PLAINTIFFS (Check box if you are representing yourself ☐)

Dr. Allen Panzer, Amy Sayers, Lily Jeung, and Darren Walchesky, on behalf of themselves and all others similarly situated

DEFENDANTS (Check box if you are representing yourself ☐)

Yelp, Inc.

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same information.)

The Yelp Class Action Lawfirm
Randy Rosenblatt, Esq.
2419 East Harbor Blvd. #110
Ventura, CA 93001

(888)648-2444

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same information.)

II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☐ 1. U.S. Government Plaintiff
☐ 2. U.S. Government Defendant
☒ 3. Federal Question (U.S. Government Not a Party)
☐ 4. Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES-For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant)

- | | | | | | |
|---|---------------------------------------|---------------------------------------|---|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN (Place an X in one box only.)

- ☒ 1. Original Proceeding
☐ 2. Removed from State Court
☐ 3. Remanded from Appellate Court
☐ 4. Reinstated or Reopened
☐ 5. Transferred from Another District (Specify)
☐ 6. Multi-District Litigation

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check "Yes" only if demanded in complaint.)

CLASS ACTION under F.R.Cv.P. 23: ☒ Yes ☐ No

☐ **MONEY DEMANDED IN COMPLAINT:** \$

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
Action for wages under Fair Standards Labor Act

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	REAL PROPERTY	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 462 Naturalization Application	Habeas Corpus:	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 140 Negotiable Instrument			<input type="checkbox"/> 530 General	Special Security
<input type="checkbox"/> 450 Commerce/ICC Rates/Etc.	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending		<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org.	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.)	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 863 DIWC/DIWW (405 (g))
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 340 Marine		<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 865 RSI (405 (g))
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 560 Civil Detainee Conditions of Confinement	PERSONAL INJURY
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	POWER OF ATTORNEY	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 891 Agricultural Acts	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 355 Motor Vehicle Product Liability		<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
<input type="checkbox"/> 893 Environmental Matters		<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 690 Other	
<input type="checkbox"/> 895 Freedom of Info. Act		<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 441 Voting	<input checked="" type="checkbox"/> 710 Fair Labor Standards Act	
<input type="checkbox"/> 896 Arbitration		<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 720 Labor/Mgmt. Relations	
<input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 740 Railway Labor Act	
	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 445 American with Disabilities-Employment	<input type="checkbox"/> 751 Family and Medical Leave Act	
<input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 230 Rent Lease & Ejectment		<input type="checkbox"/> 446 American with Disabilities-Other	<input type="checkbox"/> 790 Other Labor Litigation	
			<input type="checkbox"/> 448 Education	<input type="checkbox"/> 791 Employee Ret. Inc. Security Act	

FOR OFFICE USE ONLY:

Case Number:

CV13-07805

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII. VENUE: Your answers to the questions below will determine the division of the Court to which this case will most likely be initially assigned. This initial assignment is subject to change, in accordance with the Court's General Orders, upon review by the Court of your Complaint or Notice of Removal.

Question A: Was this case removed from state court?	STATE CASE WAS PENDING IN THE COUNTY OF	INITIAL DIVISION IN CACUS
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," go to Question B. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	<input type="checkbox"/> Los Angeles	Western
	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	Western
	<input type="checkbox"/> Orange	Southern
	<input type="checkbox"/> Riverside or San Bernardino	Eastern

Question B: Is the United States, or one of its agencies or employees, a party to this action?	If the United States or one of its agencies or employees is a party, is it:		INITIAL DIVISION IN CACUS
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," go to Question C. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	A PLAINTIFF?	A DEFENDANT?	
	Then check the box below for the county in which the majority of DEFENDANTS reside.	Then check the box below for the county in which the majority of PLAINTIFFS reside.	
	<input type="checkbox"/> Los Angeles	<input type="checkbox"/> Los Angeles	Western
	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	Western
	<input type="checkbox"/> Orange	<input type="checkbox"/> Orange	Southern
	<input type="checkbox"/> Riverside or San Bernardino	<input type="checkbox"/> Riverside or San Bernardino	Eastern
	<input type="checkbox"/> Other	<input type="checkbox"/> Other	Western

Question C: Location of plaintiff, defendants, and claims?	A Los Angeles County	B Ventura, Santa Barbara, or San Luis Obispo Counties	C Orange County	D Riverside or San Bernardino Counties	E Outside the Central District of California	F Other
Indicate the location in which a majority of plaintiffs reside:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Indicate the location in which a majority of defendants reside:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Indicate the location in which a majority of claims arose:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<p>C.1. Is either of the following true? If so, check the one that applies:</p> <p><input type="checkbox"/> 2 or more answers in Column C</p> <p><input type="checkbox"/> only 1 answer in Column C and no answers in Column D</p> <p style="text-align: center;">Your case will initially be assigned to the SOUTHERN DIVISION. Enter "Southern" in response to Question D, below.</p> <p style="text-align: center;">If none applies, answer question C2 to the right. ➡</p>	<p>C.2. Is either of the following true? If so, check the one that applies:</p> <p><input type="checkbox"/> 2 or more answers in Column D</p> <p><input type="checkbox"/> only 1 answer in Column D and no answers in Column C</p> <p style="text-align: center;">Your case will initially be assigned to the EASTERN DIVISION. Enter "Eastern" in response to Question D, below.</p> <p style="text-align: center;">If none applies, go to the box below. ↓</p>
<p>Your case will initially be assigned to the WESTERN DIVISION. Enter "Western" in response to Question D below.</p>	

Question D: Initial Division	INITIAL DIVISION IN CACUS
Enter the Initial division determined by Question A, B, or C above: ➡	

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

IX(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ NO ☐ YES

If yes, list case number(s): _____

IX(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ NO ☐ YES

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

X. SIGNATURE OF ATTORNEY

(OR SELF-REPRESENTED LITIGANT): Randy Rosenblatt, Esq.

DATE: October 15, 2013

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers Insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))

General Information

Court	United States District Court for the Central District of California
Date Filed	2013-10-22 00:00:00